

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEVEN MERCIER,

Plaintiff,

-against-

CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS, and MARK LAVORRNA,
Individually, and MICHELE MCKITRICK,
Individually,

Defendants.

ECF CASE

12 Civ. 2064 (AKH)

**NOTICE OF MOTION TO
DISMISS THE FIRST, SIXTH
AND TENTH CAUSES OF
ACTION IN PLAINTIFF'S
COMPLAINT IN THEIR
ENTIRETY AND THE FOURTH,
FIFTH, SEVENTH, EIGHTH AND
NINTH CAUSES OF ACTION TO
THE EXTENT THEY ALLEGE
VIOLATIONS BASED UPON
PLAINTIFF'S ALLEGED
WHISTLEBLOWING ACTIVITY**

PLEASE TAKE NOTICE that upon the Complaint, the supporting memorandum of law and all prior proceedings had herein, Defendants Cellco Partnership d/b/a Verizon Wireless ("Verizon"), Michele McKitrick ("McKitrick") and Mark Lavorgna ("Lavorgna") (collectively, "Defendants"), will move the Court before the Honorable Alvin K. Hellerstein in the United States Courthouse, 500 Pearl Street, New York, on a date and time to be determined by the Court, for an Order dismissing the First, Sixth and Tenth Causes of Action in Plaintiff's Complaint in their entirety, as well as the Fourth, Fifth, Seventh, Eighth and Ninth Causes of Action to the extent that such claims are based on retaliation for the same whistleblowing alleged in the Tenth Cause of Action, pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted, and for such other relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Rule 6.1(b), answering papers, if any, are to be filed and served within 14 days after service of

the moving papers and that reply papers, if any, are to be filed and served within 7 days after service of the answering papers.

Dated: New York, New York
June 29, 2012

Respectfully submitted,

KAUFF MCGUIRE & MARGOLIS LLP

By: 

Harlan J. Silverstein (HJS-4114)

Erica E. Frank (EF-1007)

950 Third Avenue, 14th Floor
New York, NY 10022
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Attorneys for Defendants

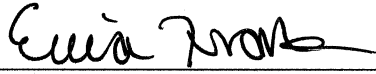
CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of Defendants' Motion To
Dismiss to be served upon:

Marjorie Mesidor
Phillips & Phillips Attorneys at Law, PLLC
30 Broad Street, 35th Floor
New York, NY 10004

via electronic filing on June 29, 2012.

Dated: New York, New York
June 29, 2012



Erica E. Frank